

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6269 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MUKUNDRAY N PANDYA

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR JV DESAI for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/11/96

ORAL JUDGMENT

Heard learned counsel for the petitioner and perused the Special Civil Application. It is not in dispute that under the scheme "advancing loan to the Government servants for building house" floated by the Government of Gujarat, the petitioner had obtained a loan and constructed a house. The petitioner was occupying the Government quarter and after construction of his own house, the respondent No.2 was perfectly legal and

justified to ask the petitioner to vacate that quarter. The notice of the respondent dated 6th October 1983 given in this respect was just and reasonable and the petitioner is unable to make out any ground of invalidity or illegality therein. It is really a sorry state of affairs prevailing in the State Government that instead of taking serious disciplinary action against the petitioner for non compliance of the notice of respondent No.2 to vacate the Government quarter, it has decided to proceed against him for taking possession thereof under the provisions of the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972. The petitioner was given the Government quarter only as he was in Government service and on acquiring his own house, he himself should have vacated the quarter and failure to do so was a serious misconduct for which he should have been severely dealt with. The possession could have been taken by the authorities concerned from the petitioner of the Government Quarter forcefully after expiry of the notice period. I fail to see any justification in the action of the respondent to resort to the provisions of the aforesaid Act. The manner in which the Government has proceeded gives out that it has permitted the petitioner to retain possession of the house as the proceedings initiated under the aforesaid Act has taken a long time. I have gone through the order of the competent authority, annexure 'A' and I do not find any illegality in the said order. The petitioner has no legal right to retain the possession of the quarter after he has acquired his own premises in the city of Ahmedabad. Similarly, the notice which has been given by the respondent No.2, annexure 'B' to the petitioner also do not suffer from infirmity which calls for any interference of this Court. It is really height of things that even after the competent authority made the order for eviction of quarter, the petitioner has still contested the matter rather than complying with the same. The learned counsel for the petitioner has failed to make out any case for interference of this Court in the matter. The reliance which has been placed by the learned counsel for the petitioner on the decision of Supreme Court in the case of Olga Tellis, reported in AIR 1986 SC 180 is of little help to the petitioner in this case. It is reiterated that the petitioner is a Government servant and on acquiring his own premises, he should have voluntarily vacated the Government quarter.

2. In the result, this Special Civil Application fails and the same is dismissed. The petitioner is directed to vacate the quarter forthwith. It is a clear case where the Government servant has committed misconduct and it shall be open to the respondent to take

appropriate disciplinary action against the petitioner.
The petitioner is further directed to pay Rs.2,000/- by
way of costs of this petition to the respondent No.1.
The respondent No.1 is directed to deposit this amount of
costs in any of the funds maintained by the Chief
Minister for natural calamities. Rule discharged.
Ad-interim relief, granted by this Court stands vacated.

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(sunil)